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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/852,001	05/10/2001	Momoe Kawajiri	1248-0541P	4123
2292 7590 07/20/2007 BIRCH STEWART KOLASCH & BIRCH PO BOX 747 FALLS CHURCH, VA 22040-0747			EXAMINER HUYNH, SON P	
			ART UNIT 2623	PAPER NUMBER
			NOTIFICATION DATE 07/20/2007	DELIVERY MODE ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

mailroom@bskb.com

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/852,001	KAWAJIRI, MOMOE	
	<b>Examiner</b>	<b>Art Unit</b>	
	Son P. Huynh	2623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 4/9/07, 5/9/07.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1,3-14 and 19-31 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3-14 and 19-31 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 May 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 5/9/2007 has been entered.

### ***Response to Arguments***

2. Applicant's arguments with respect to claims 1, 3-14, 19-31 have been considered but are moot in view of the new ground(s) of rejection.

Claims 2, 15-18 have been canceled.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1, 3-13, and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ellis et al. (US 2004/0117831 A1) – hereinafter referred to as E831

Note:

US 2005/0028208 – hereinafter referred to as E208, is a continuation of application No. 09/354,344, which is incorporated by reference in its entirety in E831 – see E831, paragraph 0151);

US 2003/0149988 A1, (referred to as E988) is a continuation of application No. 09/332,244, which is incorporated by reference in its entirety in E831 – see E831, paragraph 0149.

Regarding claim 1, E831 discloses a data recording device (program guide equipment including program guide server, digital storage device, secondary storage device, storage 56, VCR – figure 1A, and E208: figures 1, 2b, 3-5), comprising:

receiving means for receiving data distributed through a distribution medium (e.g., control circuit or receiving device at the video distribution facility for receiving program and program guide data distributed through a distribution medium – see including, but are not limited to, figure 1A, paragraphs 0010, 0089; E208: figures 1, 4-5, paragraphs 0066-0067, 0080, 0083);

E831 further discloses the user using remote access device to select a program

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for recording, the information of the selected program (i.e. program identifier, title, etc.) is stored in storage device (i.e. storage 56 – E208: figure 5, or digital storage device – see include, but are not limited to, E208: figure 4), at an appropriate time, the selected program is recorded in determined storage device such as digital storage device, secondary storage device, or storage 56 or program guide server (see including, but are not limited to, paragraphs 0149-0151, E208: paragraphs 0127-0128, 0163-0164; E988, paragraphs 0060, 0082, 0087). Therefore, the recording device inherently comprises a comparing means for making a comparison between a data identifier included in the data received by the receiving means (i.e. program identifier, program title, etc. receiving from the program source such as main facility) and a data identifier inputted from the outside (e.g. data inputted by the user using remote access device 24 or remote control unit) so that the selected program is recorded in predetermined storage device at appropriate time; storing means (i.e., digital storage device, secondary storage device, storage 56, or program guide server) for storing data having the data identifier (program with selected title, program identifier, etc.) when the two data identifiers coincide with each other so that the selected program is recorded in storage device when the selected program is aired; and

accepting means for accepting from a portable device the data identifier as the identifier inputted from the outside, wherein the portable device is set to be ready to communicate data with the data recording device (remote control receiver for receiving identifier data such as program identifier, selected title, etc. from the remote device in response to user selection of particular program title, program identifier, or channel

identifier, etc. wherein the remote device is set to communicate data with set top box, digital storage, server, etc. – see include, but are not limited to, figure 1a, paragraphs 0149-0151; E208: figures 2a-5, paragraphs 0015-0020, 0067,0076, 0086, 0092-94, 0107, 0115, 0117, 0127-0128);

E831 further discloses the accepting means for accepting from a portable device, which stores a data identifier assigned to a performance (a data identifier assigned to a performance such as title, or identifier, time, channel, etc. of a sport event, news, music, etc. is stored either in storage 56 of the remote access device or at storage device at television equipment or at television distribution facility (see include, but are not limited to, paragraphs 0097-0099; E208: figures 3-5, paragraphs 0083, 0092,0124-0125, 0129).

E831 does not explicitly disclose a performance is watched by user at a performance site. However, E831 discloses data identifier assigned to a performance including identifier, title, etc. of programs from real time data sources such as live sport, concert, news, etc. (see include, but are not limited to, figure 1A, paragraphs 0091, 0186) and remote control access 24 can be used at different locations outside the house to control the functions of recording device (see include, but are not limited to, E208: paragraphs 0092, 0111). It would have been obvious to one of ordinary skill in the art at the time the invention was made that the performance is watched by a user (e.g., audience at performance site of real time resource) or the remote access device is carried by a user at scene of news event or at the scene of real time resource in order to at least allow user/audience to watch the live event (e.g., concert, live sport game,

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etc.) without using television or allow user/audience to select desired event for recording accurately.

Regarding claim 3, E831 further discloses the data recording device further comprising: data reproducing for reproducing data which are read out of the storage device (e.g. control circuit 42 or processing circuitry 54 for retrieving the stored data from the storage device for playback on the display device – see including, but is not limited to, E208: figures 4-5);

wherein when referring to data stored in the storing means and detecting stored data corresponding to the data identifier from the accepting means, the comparing means reads the data out of the storing means to the data reproducing means, and when the data are not yet stored in the storing means (i.e. determining whether the portion of the program has already been cached – see E988, paragraph 0197), the comparing means compares a data identifier which is included in the data received by the receiving means with a data identifier from the portable device (remote access device 24), and the storing means stores data having the corresponding data identifier according to results of the comparison (see including, but are not limited to, E208: figures 3-5, paragraphs 0082, 0103, 0107, 0115, 0127 and E988: paragraphs 0187, 0126, 0149, 0153, 0157, 0187, 0197).

Regarding claim 4, E831 further discloses wherein a data identifier to be accepted by the accepting means includes a partial data identifier (i.e. identifier of an

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episode/segment of program series) for identifying partial data included in the data, and the storing means reads out the corresponding partial data to the data reproducing means when the partial data identifier is accepted (storing means reads out requested episode/segment for playback – see including, but are not limited to, E208: paragraphs 0017, 0128-0129; E988: paragraphs 0177-0180).

Regarding claim 5, E831 further discloses the data recording device further comprising:

data reproducing means for reproducing data read out of the storing means (control circuitry or processing circuitry for reproducing data read out of the storing device for playing back on the display device – E208: figures 4-5; E988: paragraphs 0153, 0157);

displaying means for displaying an icon which corresponds to the data identifier accepted by the accepting means (e.g., displaying device for displaying icon corresponds to the program/recorded program that allow user to select the program to playback- see including, but are not limited to, figures 2-10; E208: figures 7-11, paragraphs 0110, 0170; E988: figures 18a-21);

input means for selectively inputting the icon displayed by the display means (e.g. remote control device or remote access device for selecting the icon on the display device – see including, but are not limited to, figure 1A; E208: figures 4-10, E988: figures 18a-21);

wherein when referring to data stored in the storage means and detecting stored data having a data identifier corresponding to the icon inputted by the input means, the



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comparing means reads the data out of the storing means to the data reproducing means (e.g. retrieve program/segment having program/segment identifier associated with the selected icon, and the retrieved content is provided to the control circuitry or processing circuitry for reproducing and playing back on the display screen – see including, but are not limited to, E208: figures 4-10, E988: figures 18a-21, paragraphs 0153-0157).

Regarding claim 6, E831 further discloses wherein a data identifier to be accepted by the accepting means includes a partial data identifier for identifying partial data included in the data (i.e. program/segment title, program/segment identifier, etc. – see including, but are not limited to, E208: paragraphs 0127, 0155, 0163), and when referring to the data stored in the storing means and detecting stored partial data having a partial data identifier corresponding to the icon inputted by the input means, the comparing means reads the partial data out of the storing means to the data reproducing means (e.g. storing means reads out requested episode/segment for playback – see including, but are not limited to, E208: figures 4-10, paragraphs 0017, 0128-0129; E988: figures 18a-21, paragraphs 0153, 0157, 0177-0180).

Regarding claim 7, the limitations of the performance recording system that correspond to the limitations of the data recording device in claim 1 are analyzed as discussed in the rejection of claim 1. For the additional limitation of portable device which is superior in carryability and capable of obtaining and storing a data identifier assigned to a

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performance is met by remote access device (24) which may be any device suitable personal computer, portable computer, palmtop computer, handheld personal computer, display remote, touch screen remote, automobile PC, PDA or any other suitable computer based device and capable of obtaining and storing data identifier assigned to a performance such as title of a program, program identifier, etc.– E208: paragraph 0092, figures 1, 5); It is obvious that the performance is watched by a user (e.g., audience at performance site of real time resource) or the remote access device is carried by a user at scene of news event or at the scene of real time resource in order to at least allow user/audience to watch the live event (e.g., concert, live sport game, etc.) without using television or allow user/audience to watch missing part of the live event or interest live event again.

for the additional limitation “a distribution medium for distributing record data of the performance as data together with the data identifier” is met by distribution medium (18) for distributing program and program guide data and other information to the interactive program guide television equipment 17 – see include, but are not limited to, E208: figure 1, paragraphs 0066-0069);

for the additional limitation “a data recording device which stores record data based on the data identifier from the portable device and the data identifier from the distribution medium” is met by storage device at television equipment 17 which store program/program segment/program guide data based on data identifier (program title, program identifier, etc.) from the remote access device (24) and the data identifier from

the distribution medium ( see including, but are not limited to, E208: figures 1, 2b, 3-5, paragraphs 0017, 0110, 0127, 0163).

Regarding claim 8, E831 further discloses the data recording device further comprising:

accepting means (i.e. communications device 27 – E208: figure 2d, or communications device 37 – E208: figure 3) for accepting from a portable device which stores a data identifier and is set to be ready to communicate data with the data recording device, the data identifier as the data identifier inputted from the outside (communications device 27 or 37 accepts from the remote access device 24 which stores a data identifier in storage 56 and is set to be ready to communicate data with the program guide equipment 17, the data identifier as identifier (i.e. identifier of program to be recorded, to be watched, etc.) inputted from the outside (e.g. using user interface 52 –E208: figure 5, paragraphs 0072, 0086, 0093, 0103, 0107, 0127-0129, 0134, 0163).

Regarding claims 9-12, the additional limitations as claimed correspond to the additional limitations as claimed in claims 2-6, and are analyzed as discussed with respect to the rejection of claims 3-6.

Regarding claim 13, E831 further discloses the portable device is a mobile phone capable of receiving the data identifier, which is transmitted by radio waves (paragraph 0092).

Regarding claim 31, E831 further disclose selecting images of scenes in the performance by user input (interpreted as user selection of title, video clip, detail description, graphic of particular program/episodes – see include, but is not limited to, E208: figures 7-8, 42, paragraphs 0113-0115), wherein the portable device stores the images of scenes in the performance (interpreted as the remote access device stores program guide information comprises video clips, detailed descriptive information of the program in storage 56 – see include, but is not limited to, E208: paragraph 0129), the images are for identifying the partial data included in the data (the images such as title, video clips, detailed descriptive information identifying partial of data included in the data of program/episode – see include, but is not limited to, E208: paragraphs 0067, 0115, 0129), the storing means reads out the corresponding partial data to the data reproducing means when the respective image is selected (interpreted as storage device (e.g. digital storage device, secondary storage device, or program guide server, or storage 56 reads out video clips, program, or episode to the processing circuitry/control circuitry for display the corresponding selected video clip, program, or episode when the user select to playback the program/episode or additional information either on the television display at the user television equipment or on the display of the remote access device (see include, but is not limited to, E208: figures 4-5, paragraphs 0113-0115, 0130-0131, 0133-0134). E831 further disclose the program guide information, or detailed descriptive information are still images (see include, but are not limited to, figure 53E, paragraphs 0118, 0225, 0227).

5. Claims 14, 19-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over E831 in view of Sehr (US 6,999,936).

Regarding claim 14, E831 discloses a recording system comprises a portable device as discussed in the rejection of claim 7. E831 further discloses remote access device (24) which may be any device suitable personal computer, portable computer, palmtop computer, handheld personal computer, display remote, touch screen remote, automobile PC, PDA or any other suitable computer based device and capable of obtaining and storing data identifier given to a performance such as title of a program, program identifier, etc.— E208: paragraph 0092, figures 1, 5). However, E831 does not explicitly disclose the portable device is a card-type device (device performs function of a card).

Sehr discloses the portable device is a card type device (e.g. portable visitor card device) to which an identifier is magnetically or electronically writable for perform function of the card such as payment, or admission, etc. (see including, but are not limited to, abstract, col. 2, line 46-col. 3, line 12; col. 3, lines 34-62). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify E831 to use the teaching as taught by Sehr in order to reduced administrative cost, improved productivity, better quality of service, and higher revenues associated with the issuance, usage, and processing of the computerized cards (col. 2, lines 2-40).

Regarding claim 19, the limitations as claimed that correspond to the limitations as claimed in claim 7 are analyzed as discussed with respect to the rejection of claim 7. However, E831 does not specifically disclose the additional limitation of portable device is used as an entrance ticket for a performance.

Sehr disclose a portable device used as an entrance ticket for a performance (portable ticketing card/ portable visitor card device used for the admission to events such as sporting activities or other entertainment programs- see including, but are not limited to, abstract, col. 3, lines 34-62). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify E831 to use the teaching as taught by Sehr in order to reduced administrative cost, improved productivity, better quality of service, and higher revenues associated with the issuance, usage, and processing of the computerized cards (col. 2, lines 2-40).

Regarding claims 20-24, the additional limitations as claimed correspond to the additional limitations as claimed in claims 8-12, and are analyzed as discussed with respect to the rejections of claims 8-12.

Regarding claim 25, E831 in view of Sehr teaches a system as discussed in the rejection of claim 19. E831 further discloses information storing means (i.e. storing device for previously storing program guide data in the television equipment 17)

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corresponding to partial data included in the data (see including, but are not limited to, E208: paragraphs 0073, 0078, 0083, 0089);

reproducing means (control circuitry, processing circuitry, or producing device in program server) for producing the information stored in the information storing means (retrieve program guide data from the storage device and generate the program guide display screen using retrieved from guide data – see including, but are not limited to, E208: paragraphs 0073, paragraph 0078, 0102).

Regarding claims 26-30, the additional limitations as claimed correspond to the additional limitation as claimed in claims 8-12, and are analyzed as discussed with respect to the rejections of claims 8-12.

### ***Conclusion***

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Ortiz et al. (US 7,149,549 B1) discloses providing multiple perspectives for a venue activity through an electronic hand held device.

Anderson. Jr. et al. (US 7,124, 425 B1) discloses audio/video system and method utilizing a head mounted apparatus with noise attenuation.

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7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Son P. Huynh whose telephone number is 571-272-7295. The examiner can normally be reached on 9:00 - 6:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher S. Kelley can be reached on 571-272-7331. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Son P. Huynh

July 5, 2007

A handwritten signature in black ink, appearing to read 'am2', with a horizontal line underneath.